

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALPHA CAPITAL ANSTALT,

Plaintiff,

-against-

HIGH PERFORMANCE BEVERAGE COMPANY,

Defendant.

Index No. 639/2015

AFFIRMATION

State of Arizona)
ss)

County of Maricopa)

Nicholas Halley hereby affirms under penalties of perjury under the laws of the United States of America:

1. I am the President of High Performance Beverage Company ("TBEV" or "Defendant"), defendant in the above captioned matter.
2. On August 26, 2014, TBEV, Tonaquint, Inc. ("Tonaquint"), and Alpha Capital Anstalt ("Alpha" or "Plaintiff") entered into a note purchase agreement (the "NPA").
3. Pursuant to the NPA, the Plaintiff purchased from Tonaquint a \$62,234.24 principal amount portion of a note originally issued by the Defendant to Tonaquint on October 2, 2013.
4. Pursuant to the NPA the Defendant issued to Alpha a new note dated August 26, 2014 in the principal amount of \$62,234.24 (the "2013 Note"). A copy of the 2013 Note is attached as Exhibit A to the Complaint.
5. On August 27, 2014, TBEV and Plaintiff entered into a securities purchase agreement (the "SPA"). A copy of the SPA is attached as Exhibit B to the Complaint.

6. Pursuant to the SPA, the Plaintiff purchased from Defendant for \$150,000 an original issue discount note in the principal amount of \$160,000 (the "2014 Note" and together with the 2013 Note, the "Notes"). A copy of the 2014 Note is attached as Exhibit C to the Complaint.

7. Both the Notes are convertible into shares of the Defendant's common stock and contained material provision to enable the Plaintiff to sell any share it acquires upon conversion of the Notes

8. On August 29, 2014, Plaintiff submitted a notice of conversion, converting \$6,000 of the 2013 Note into 7,142,857 shares of the TBEV's common stock.

9. Defendant failed to make any payment on the 2013 Note.

10. Defendant failed to make any payment on the 2014 Note.

11. On November 20, 2014, Plaintiff submitted another notice of conversion (the "November Conversion Notice"), converting \$17,592.12 of the 2013 Note into 104,715,000 shares of the TBEV's common stock (the "November Conversion Shares").

12. The Defendant failed to honor the November Conversion Notice and did not deliver the November Conversion Shares.

13. Defendant ceased to be DTC eligible.

Dated: ~~August~~ Sept. 11, 2015

Affirmed to before me this 11th
day of ~~August~~ September, 2015.


Notary Public



